

**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, AUGUST 1, 2000
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.**

Commissioners Present: Kathy Campbell, Chair
Bernie Heier
Linda Steinman
Bob Workman

Commissioners Absent: Larry Hudkins, Vice Chair

Others Present: Norm Agena, County Assessor
Kerry Eagan, Chief Administrative Officer
Dave Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Gwen Thorpe, Deputy County Clerk

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, July 25, 2000. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)**

MOTION: Heier moved and Workman seconded approval of the minutes of the Board of Equalization meeting dated July 25, 2000. Campbell, Heier, Workman and Steinman voted aye. Motion carried.

- 2) **ADDITIONS AND DEDUCTIONS:**

Approval of 31 additions and deductions to the tax assessment rolls per Exhibit A.

MOTION: Workman moved and Heier seconded approval. Heier, Campbell, Steinman and Workman voted aye. Motion carried.

3) **APPROVAL OF MOTOR VEHICLE TAX EXEMPTIONS:**

**Capital Humane Society
Catholic Social Services
Eastridge Presbyterian Church
Fellowship Baptist Church**

MOTION: Steinman moved and Heier seconded approval of motor vehicle tax exemptions for Catholic Social Services, Eastridge Presbyterian Church and Fellowship Baptist Church and to also approve a motor vehicle tax exemption for Capital Human Society subject to the vehicle(s) being titled and registered to the applicant. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

4) **DENIAL OF A MOTOR VEHICLE TAX EXEMPTION:**

First Presbyterian Church

MOTION: Heier moved and Steinman seconded denial of a motor vehicle tax exemption for First Presbyterian Church because it was not timely filed. Workman, Campbell, Steinman and Heier voted aye. Motion carried.

5) **APPROVAL OF A FULL 451 TAX EXEMPTION ON REAL PROPERTY FOR 2000:**

University Park Jehovah's Witnesses

MOTION: Steinman moved and Workman seconded to accept the Assessor's recommendation and approve a full exemption on real property for year 2000 for University Park Jehovah's Witnesses. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

6) **APPEAL FILED ON PERSONAL PROPERTY FOR THE FOLLOWING:**

GERALD W GREEN

The County Assessor indicated that the personal property return was filed on June 21, 2000 and recommended a ten percent penalty.

JAMES D WATTS, CPA

The County Assessor indicated that the personal property return was filed on May 5, 2000 and recommended a ten percent penalty.

MOTION: Steinman moved and Heier seconded to accept the County Assessor's recommendation and assess a ten percent penalty on personal property for Gerald W Green and Lincoln Physical Therapy Associates (James D Watts). Steinman, Workman, Campbell and Heier voted aye. Motion carried.

7) **ADJOURNMENT:**

By direction of the Chair, the Board of Equalization meeting was adjourned.

Bruce Medcalf
County Clerk

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The Chair noted that New Business Item 5A would be moved forward on the agenda.

- 1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, July 25, 2000. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)**

MOTION: Heier moved and Workman seconded approval of the minutes of the Board of Commissioners meeting dated July 25, 2000. Campbell, Heier, Workman and Steinman voted aye. Motion carried.

- 2) **CLAIMS: Approval of all claims processed through Tuesday, August 1, 2000.**

MOTION: Workman moved and Heier seconded approval. Heier, Campbell, Steinman and Workman voted aye. Motion carried.

5) **NEW BUSINESS:**

A. Execution of quitclaim deeds for vacated portions of Liberty Lane to the following: (M-00-62)

- **Jean A and Warren M Swanson (Parcel 1-23,748.76 square feet), in the amount of \$3,324.83**
- **United Development Inc., a Nebraska Corporation - Marlyn Schwartz, President (Parcel 2-24,005.32 square feet), in the amount of \$3,360.74**
- **Alonzo A and MariJane J Athey (Parcel 3-24,898.74 square feet), in the amount of \$3,485.82**

Brian Carstens, developer, appeared and stated that all parties are in agreement.

MOTION: Steinman moved and Workman seconded approval. Heier, Workman, Steinman and Campbell voted aye. Motion carried.

3) **PUBLIC HEARINGS:**

A. Proposed issuance of a series of variable rate health facilities revenue bonds, in an amount not to exceed \$37,000,000, by the Hospital Authority No. 1 of Lancaster County. (R-00-89)

The Chair opened the public hearing and asked if anyone wished to testify in favor of the proposed issuance of revenue bonds.

Joel Vanderveen, attorney representing Immanuel Retirement Community, appeared and explained that the bonds will be used to finance a retirement facility in the Williamsburg area in Lincoln. It will include 44 assisted living units and 90 independent units.

The Chair asked if anyone else wished to provide testimony.

No one appeared and the hearing was closed.

MOTION: Heier moved and Steinman seconded approval. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

3) **PUBLIC HEARINGS CONTINUED:**

B. County Special Permit 181, Post Rock Pines Community Unit Plan, requested by Lyle Loth of ESP, on behalf of Randy Miller, consisting of eight dwelling units, on property generally located at the southeast corner of South 120th Street and Firth Road in Lancaster County, Nebraska.

C. County Preliminary Plat 00008, Post Rock Pines, requested by Lyle Loth of ESP, on behalf of Randy Miller, consisting of eight residential lots and one outlot, with requests to waive street lighting, street trees, landscape screens, sidewalks and storm water detention, on property generally located at the southeast corner of South 120th Street and Firth Road in Lancaster County, Nebraska.

The Chair opened the public hearings regarding County Special Permit 181 and County Preliminary Plat 00008 and asked if anyone wished to testify in favor of the proposals.

Mike DeKalb, Planning Department, appeared and distributed documentation denoting the following acreage development near Firth (Exhibit I):

- Hilltop Estates Community Unit Plan (8 lots)
- Iron Horse Acres Community Unit Plan (12 lots)
- Hilltop Estates (7 lots)
- Prairie Lake Estates Community Unit Plan (9 lots)
- Post Rock Pines Community Unit Plan (8 lots)
- Golden Pond Estates (Approximately 25 lots)

He added he had visited with Mike Hoefler, Firth Village Clerk, who indicated approximately one building permit is issued per week.

Lyle Loth of ESP appeared on behalf of Randy Miller and stated they are in agreement with all conditions of approval as set forth by the Planning Department.

In response to a question asked by Workman, Loth said that by creating the lots approximately 28 of the 138 acres in the plat would be removed from production and put into acreage developments.

3) **PUBLIC HEARINGS CONTINUED:**

Steinman noted that a major portion of a large outlot currently being used to graze buffalo is in the 100 year floodplain.

Loth stated they have requested a density bonus to preserve the open space as agricultural land. He stated it was his understanding the density bonus would be permanent. The only way the density bonus would change would be if the zoning was changed to something other than "AG".

The Chair asked if anyone else wished to provide testimony.

No one appeared the hearings were closed.

MOTION: Steinman moved and Heier seconded approval of County Special Permit 181 and County Preliminary Plat 00008, Post Rock Pines.

Workman indicated he could not support the proposals. He added that the County Board should review the Comprehensive Plan more thoroughly.

ROLL CALL: Campbell, Steinman and Heier voted aye. Workman voted no. Motion carried.

D. Comprehensive Plan Conformance Number 00005, to acquire a permanent conservation easement over approximately 35.49 acres of natural drainage ways, ponds, wetlands, trees and open space generally located at the southwest corner of Southwest 70th Street and Old Cheney Road in Lancaster County, Nebraska.

The Chair opened the public hearing and asked if anyone wished to testify in favor of the proposal.

In response to a question asked by Heier, Nicole Fleck-Tooze, Planning Department, stated the easement was being gifted by the development. She added there would be a potential tax incentive on the part of the development because the property value would change with the permanent conservation easement.

Heier asked if the easement could be lifted if there were a change of zone.

Fleck-Tooze said that the easement is permanent and explained that state regulations would require the County Board to find that the easement no longer served the original purpose for which it was established.

3) **PUBLIC HEARINGS CONTINUED:**

The Chair asked if anyone else wished to provide testimony.

No one appeared and the hearing was closed.

MOTION: Steinman moved and Heier seconded approval of Comprehensive Plan Conformance 00005. Steinman, Workman, Campbell and Heier voted aye. Motion carried.

E. Request for deletion of licensed premise from DLH, Inc. doing business as Coaches Sports Bar & Grill, located at 640 West Prospector Court, in Lancaster County, Nebraska. The request is for deletion of an area 110 feet by 50 feet in the center portion of the building.

The Chair opened the public hearing and asked if anyone wished to testify in favor of the deletion.

The Clerk administered the oath to Peter Katt.

Peter Katt, attorney representing DLH, Inc., stated he was appearing to request the County Board to delicense a portion of the premise which is currently licensed to Coaches Sports Bar and Grill. He said the remaining premise, which would continue to be subject to the Coaches license, satisfies all zoning and building codes and life safety requirements for it to continue to operate as allowed under its licensed use premise. Katt added that a new application by DLH is on file at the Liquor Control Commission. If the delicensure is approved the public hearing will not be necessary for the new application by either the County Board or the Liquor Control Commission. He further stated that if the delicensure is denied the new application would move forward. Katt stated the objective of his client is to obtain a hearing before the Liquor Control Commission, on behalf of the tenant which he has proposed to license the property to, as to whether or not that tenant is a viable candidate for a liquor license for that space. Katt stated the Liquor Control Commission cannot make a decision regarding licensing the premise to a second party until that portion of the premise has been delicensed.

Heier asked if the County Attorney's Office concurred with Mr. Katt's comments regarding the procedure of the liquor license.

Dave Johnson, Deputy County Attorney, stated it was his understanding that the new application for liquor license was the license which is currently before the Liquor Control Commission.

3) **PUBLIC HEARINGS CONTINUED:**

Katt stated a liquor license application is currently pending at the Liquor Control Commission for DTR, Inc., which is the proposed operator for the delicensed premise. He stated DLH has also filed a new application with the Liquor Control Commission and explained that if the delicensure request is denied the new license application would come forward through the normal procedure. The new license application would be for Coaches and Yankee Doodles.

Johnson stated he could not verify any of the information which was provided by Mr. Katt since no documentation has been forwarded to the County. He stated it was his understanding of the process that the new application by DLH would specify the nature of the business and would come before the Board if the request for deletion is denied.

Workman asked if DLH, Inc. would be the new applicant if the deletion is denied.

Katt stated the application for the delicensing is a request to make the area for DLH smaller. The only way to obtain the reduction is to request the delicensing or to file a new application for a smaller area.

Workman asked how DTR fit into the picture.

Katt stated DTR would like to hold their own liquor license on the area that DLH is seeking to delicense.

Workman asked if he was correct that DTR would be the new holder of the new license if the area were delicensed.

Katt stated that was correct.

Workman asked for the names of the principal holders for DLH and DTR.

Katt asked how that related to the issue.

Johnson stated in the application an agreement was provided to the County Board in which it refers to DLH, DHL and Duane Hartman Investments. He stated Workman's question was valid because the agreement was presented to the Board and one of the concerns or issues might be who actually controls the license.

3) **PUBLIC HEARINGS CONTINUED:**

Katt stated it was his opinion that it was a question for the Liquor Control Commission. He stated DLH, Inc., who is the current liquor license holder, is owned jointly by Duane Hartman and Matt Diers. Duane Hartman Investments is the corporation which owns the building. That entity has leases or proposed leases with all the entities which are occupying the businesses. The owner of that business (Duane Hartman Investments) is Duane Hartman.

Workman asked about the principal holders for DTR.

Katt responded that DTR was not his client and he didn't know who the principals were.

Steinman stated the Board had received information that an individual accessed Coaches from Cheetah's by using a door which adjoins the two properties. She asked if the door was secured.

Katt commented he was unaware of those facts.

Steinman stated they received the information separate from the record.

Johnson stated he believed the question was whether there is a common access way. He stated the concern would be control of the property.

Katt responded he didn't know about a common access way.

Steinman stated she believed that it was part of the record during the last public hearing that the door would be secured.

Workman asked Katt if he had any knowledge as to whether DTR, Inc. is the same entity which presently occupies the space.

Katt stated to his knowledge DTR is not in occupancy of the premise; the premise is still licensed to his client (DLH).

The Chair asked if anyone else wished to provide testimony.

The Clerk administered the oath to Joyce Champoux, 840 West Stockwell.

3) **PUBLIC HEARINGS CONTINUED:**

Joyce Champoux, President of the Yankee Hill Neighborhood Association, appeared and indicated she was speaking in opposition on behalf of the neighborhood association. She also urged the Board to approve an ordinance to prevent such an establishment in family neighborhoods.

The Clerk administered the oath to Wayne Giebelhaus, 4000 Folsom Street.

Giebelhaus stated he felt Duane Hartman wanted to destroy the Yankee Hill neighborhood because of money. He stated statistics show that in cities where nude bars are established in neighborhoods, undesirable events occur and have increased up to 65 percent.

The Clerk administered the oath to William Hergott, 1816 SW 21 Street.

Hergott stated Deb Vocasek, 1903 W Mulberry Court, was also in attendance.

Hergott displayed the following photographs taken of the Yankee Hill area (Exhibit A):

- Roper Elementary School
- Yankee Hill Elementary School
- Roadside where the Bison Bike Path will be located
- Church in the West "A" neighborhood
- Daycare in building owned by Duane Hartman
- Daycare Center on "A" Street
- View looking south/southwest from Cheetah's front door
- View looking northeast from the Regional Center parking lot
- Coaches Sports Bar & Grill
- Yankee Hill neighborhood
- View of Yankee Doodles convenience store/Cheetah's/ Coaches Sports Bar & Grill/Sand volleyball court/playground equipment

The Clerk administered the oath to Larry Geiger, 2247 West Pleasant Hill Road.

Geiger suggested that a social center for wedding receptions, graduation parties and similar events be located at the site.

He stated he doubted that anyone would move from the area, however, there would not be the same number of people moving into the neighborhood if the business continues.

3) **PUBLIC HEARINGS CONTINUED:**

The Clerk administered the oath to Reverend Merv Goodrick, 1515 West South Street.

Reverend Goodrick stated the business would add to the crime in the neighborhood and community. He noted there have already been thefts, vandalism and robberies at their church. Goodrick also noted there is a school within the church which is located within one-half mile of the establishment.

The Clerk administered the oath to Scott Moore, 4345 South 63 Street.

Moore, Clinical Director of the Lincoln Regional Center, appeared in opposition and stated that there are patients on the grounds of the hospital from time to time who are vulnerable and have not recovered fully from their illness.

The Clerk administered the oath to Cynthia Pemberton, 4850 Sherman Street.

Pemberton, President of the Lincoln affiliate of the National Alliance for the Mentally Ill, appeared and stated that the presence of Cheetah's is detrimental to the goals of the Lincoln Regional Center.

The Clerk administered the oath to Cindy Williams, 1924 Southwest 22 Street.

Williams appeared in opposition and noted the following:

- Duane Hartman was invited to neighborhood meetings and never attended.
- The community is very diverse, ranging in age from six to retirement age.

The Clerk administered the oath to Scott Bailey, 2925 Southwest 6 Street.

Bailey displayed a picture of the neighborhood sign, noting there were two intoxicated individuals sitting on top of the sign on a Saturday night. Later that evening those individuals were seen going to Cheetah's, however, they were not allowed into the premise. It wasn't until later that night, when they got a ride home, that they left the neighborhood.

He also noted that the establishment generated a large amount of trash.

The Clerk administered the oath to Barbara Ramsey, Chief Executive Officer of the Lincoln Regional Center.

3) **PUBLIC HEARINGS CONTINUED:**

Ramsey stated she is responsible for the safety and security of the patients at the hospital, as well as the programming. She explained they have 250 patients ranging from 12 years of age to 60 or 70. Ramsey added there are sexual offenders who come to the hospital for therapy, on an outpatient basis, who are very vulnerable. She reiterated that the presence of Cheetah's was much like locating a bar across from the Betty Ford Center.

The Clerk administered the oath to Danny Walker, 427 "E" Street.

Walker appeared in opposition and urged the County Board to review the rules and regulations regarding liquor licenses.

Johnson submitted the following into the record:

- An agreement, dated June 22, 2000 between DLH and DTR (Exhibit B)
- An agreement, dated February 4, 2000 between DHI and DTR (Exhibit C)

Steinman submitted the following into the record:

- 26 e-mailed letters and faxes opposing Cheetah's (Exhibit D)
- 1 e-mail in favor of Cheetah's (Exhibit E)

Campbell submitted into the record a list of telephone calls received in the County Board's Office on or before August 1, 2000 in opposition to the request for deletion (Exhibit F).

Katt addressed Steinman's question regarding access between Coaches and Cheetah's. He indicated he received contact from his client through his law firm stating that individuals must exit through the front door of one business to go over to the other.

He reminded the Board that the request was not to open a strip club or any other facility. The request is to delicense a portion of an existing liquor license. Katt suggested that the Board follow the existing law which does not provide any authority for the County Board to regulate that type of facility.

The Chair closed the public hearing and requested that the County Board defer any motion on the item until research and evaluation of testimony presented is concluded.

By direction of the Chair, it was requested that an item be placed on the County Commissioners Staff Meeting for Thursday, August 3, 2000 to receive and discuss reports from the County Attorney's Office and the Sheriff's Office relative to the business of Cheetah's as it is related to County Board Resolution 3557.

4) **OLD BUSINESS:**

A ballot for accepting or rejecting debtors' second amended plan under Chapter 11 of the United States Bankruptcy Code in relation to JumboSports, Inc. (M-00-58)

MOTION: Heier moved and Workman seconded approval to accept a debtor's second amended plan under Chapter 11 of the United States Bankruptcy Code in relation to JumboSports, Inc.

Dave Johnson, Deputy County Attorney, stated the County would be paid the outstanding \$41,000.

In response to a question asked by Workman, Johnson stated the County would not be releasing the debtor's obligation.

ROLL CALL: Campbell, Steinman, Workman and Heier voted aye. Motion carried.

5) **NEW BUSINESS:**

A. Execution of quitclaim deeds for vacated portions of Liberty Lane to the following: (M-00-62)

- **Jean A and Warren M Swanson (Parcel 1-23,748.76 square feet), in the amount of \$3,324.83**
- **United Development Inc., a Nebraska Corporation - Marlyn Schwartz, President (Parcel 2-24,005.32 square feet), in the amount of \$3,360.74**
- **Alonzo A and MariJane J Athey (Parcel 3-24,898.74 square feet), in the amount of \$3,485.82**

This item was moved forward.

5) **NEW BUSINESS CONTINUED:**

B. A conservation easement agreement with Ron and Janice Skoda for property generally located at Southwest 70th Street and Old Cheney Road, in Lancaster County, Nebraska consisting of 35.49 acres in Countryside Estates 1st Addition. The easement preserves the condition of natural drainage ways, ponds, wetlands, trees and open space. (C-00-378)

MOTION: Heier moved and Workman seconded approval. Steinman, Heier, Workman and Campbell voted aye. Motion carried.

C. A resolution approving or denying Comprehensive Plan Conformance 00005, to acquire a permanent conservation easement over approximately 35.49 acres of natural drainage ways, ponds, wetlands, trees and open space generally located at the southwest corner of Southwest 70th Street and Old Cheney Road in Lancaster County, Nebraska. (R-00-95)

MOTION: Steinman moved and Workman seconded approval of Resolution 00-95 approving Comprehensive Plan Conformance 00005. Workman, Campbell, Steinman and Heier voted aye. Motion carried.

D. A resolution waiving a potential conflict of interest in a case captioned Breitzman V Thurber, et. al. with regard to a former law clerk who has accepted a position as an attorney with the firm representing the plaintiff. (R-00-94)

MOTION: Heier moved and Steinman seconded approval of Resolution 00-94. Workman, Heier, Campbell and Steinman voted aye. Motion carried.

E. A request from The CIT Group for a refund of personal property taxes for 1998, in the amount of \$27.78 and a credit for 1999, in the approximate amount of \$22.04. (M-00-53)

MOTION: Steinman moved and Workman seconded approval. Campbell, Heier, Steinman and Workman voted aye. Motion carried.

5) **NEW BUSINESS CONTINUED:**

F. A request from Rodney J Schwartz for a refund of real estate taxes for 1998, in the amount of \$70.54, and for 1999, in the approximate amount of \$65.28, to be applied to the second half of the taxes due. (M-00-60)

MOTION: Heier moved and Steinman seconded approval. Campbell, Steinman, Heier and Workman voted aye. Motion carried.

G. A request from Larry B Seawall for a refund of real estate taxes for 1999, in the approximate amount of \$303.80, to be applied to the second half of the taxes due. (M-00-61)

MOTION: Steinman moved and Heier seconded approval. Campbell, Heier, Workman and Steinman voted aye. Motion carried.

H. A resolution authorizing the installation of traffic signs in Lancaster County, Nebraska: (R-00-93)

- **Install "Yield" sign on North 162nd Street south of Waverly Road for northbound traffic**
- **Install "Yield" sign on North 162nd Street north of Waverly Road for southbound traffic**

MOTION: Workman moved and Steinman seconded approval of Resolution 00-93. Heier, Campbell, Steinman and Workman voted aye. Motion carried.

I. Appointment of Shannon Sillman to the Advisory Committee of the Community Mental Health Center for a three year term, beginning January 1, 2001 through December, 2004.

MOTION: Heier moved and Steinman seconded approval. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

6) **CONSENT ITEMS:** These are items of business that are routine and which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

A. Receive and Place on File:

1. **County Engineer's Quarterly Report**
2. **County Engineer's Geographic Information System Quarterly Report**
3. **County Attorney's Quarterly Report**

B. Right-of-way contracts between the County Engineer and the following relating to road improvements:

- **Marvin L, Doris L and Gary L Hall, in the total amount of \$7,267.47, on Fletcher Avenue from Bridge H-60 to North 148th Street; Project C55-H-409(1). (3 contracts) (C-00-374, C-00-376 & C-00-377)**
- **Steve, Donald E and Douglas W Althouse, in the total amount of \$30, on Fletcher Avenue from Bridge H-60 to North 148th Street; Project C55-H-409(1). (3 contracts) (C-00-372, C-00-373 & C-00-375)**
- **Steven and Tamara Althouse, in the total amount of \$907.13, on Fletcher Avenue from Bridge H-60 to North 148th Street; Project C55-H-409(1). (2 contracts) (C-00-370 & C-00-371)**

C. A post construction surveying agreement between the County Engineer and K & M Land Surveying, Inc., in the total amount of \$4,425, to re-establish property lines at the following locations: (C-00-369)

- **Northwest 98th Street and West Raymond Road; Project SRR-55(119)**
- **South 68th Street and Panama Road; Project C55-X-405(4)**
- **North 1st Street from Fletcher Avenue to McKelvie Road; Project C55-F-404(1)**
- **Fletcher Avenue from 84th Street to 120th Street; Project C55-GH-403(2)**
- **South 56th Street from Rebel Drive to Saltillo Road; Project STPE-3355(1)**

6) **CONSENT ITEMS CONTINUED:**

MOTION: Steinman moved and Heier seconded approval of the Consent Items. Workman, Campbell, Steinman and Heier voted aye. Motion carried.

7) **OTHER BUSINESS:**

Danny Walker, 427 E Street, appeared and submitted documentation regarding the following into the record:

- Acceleration of development in the flood plain since 1990 (Exhibit G)
- Copy of a letter from Curt Donaldson, dated February 22, 1999, responding to questions posed by the South Salt Creek Community Organization, specifically Item 6. (Exhibit H)

8) **ADJOURNMENT:**

MOTION: Steinman moved and Heier seconded adjournment of the Board of Commissioners meeting. Steinman, Workman, Heier and Campbell voted aye. Motion carried.

Bruce Medcalf
County Clerk